



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: ALEXANDRE A.N. BAPTISTA
APPLICATION No.: 10/789,451
FILED: FEBRUARY 26, 2004
FOR: VACUUM PACKAGING APPLIANCE WITH
REMOVABLE TROUGH

EXAMINER: UNKNOWN
ART UNIT: 3721
CONF. No: 5173

STATEMENT OF FACTS BY BRIAN R. COLEMAN

IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR

(37 CFR 1.47)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Brian R. Coleman, reside at 833 Middle Avenue, Menlo Park CA, 94025. I am a registered patent attorney (Reg. No. 39,145) and have been outside patent counsel to Tilia International, Inc. of Delaware (Tilia) for about one and one-half years. This statement is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the nonsigning inventor, Alexandre A. N. Baptista (Mr. Baptiste), for the above-identified patent application before deposit thereof in the Patent and Trademark Office. I have first-hand knowledge of the facts recited herein.

I have reviewed Mr. Baptiste's employment documents and discussed Mr. Baptiste's employment at Tilia with several employees of Tilia. I have worked with Mr. Baptiste on several patent applications including the above-identified patent application, for which patent applications Mr. Baptiste is either a sole or joint inventor, and which patent applications Mr. Baptiste either has assigned to Tilia or is under obligation to assign to Tilia.

Mr. Baptiste was an employee of Tilia from about April 2000 to about August 2003. During that time, Mr. Baptiste was obligated to assign to Tilia his rights in inventions made during his employment at Tilia. During his employment, Mr. Baptiste cooperated with Tilia on the filing of several patent applications. To my knowledge, Mr. Baptiste has never disavowed his obligation to cooperate with Tilia in pursuing protection for the technology covered in the above-identified patent application.

The above-identified patent application claims priority to United States Provisional applications no. 60/450,295 and 60/450,528, both filed on February 27, 2003, having Mr. Baptiste as sole inventor. Mr. Baptiste was employed by Tilia when inventing the technology disclosed in and at the time of filing the '295 and the '528 provisional applications. Mr. Baptiste cooperated in the preparation and filing of the '295 and the '528 provisional patent applications.

Around November 2003, I began attempting to obtain Mr. Baptiste's cooperation in perfecting Tilia's rights in a number of patent applications including the above-identified application. At that time, I fully expected Mr. Baptiste to cooperate. I was unable to obtain Mr. Baptiste's signature on an Inventor's Declaration prior to February 27, 2004, the bar date for claiming priority to the '295 and the '528 provisional patent applications. In order to preserve Tilia's rights in the technology disclosed in the '295 and the '528 provisional patent applications, I attended to filing the above-identified patent application on February 26, 2004.

My efforts to obtain Mr. Baptiste's cooperation continued through June 10, 2004, and included several emails to Mr. Baptiste's last known personal email account, several telephone calls to Mr. Baptiste's last known telephone number, and a variety of letters sent via Federal Express to Mr. Baptiste's last known address. These communications occurred both before and after the filing of the above-identified patent application.

Mr. Baptiste's last known mailing address is 8078 Creekside Drive, Dublin, CA 94568.

In my email communications to Mr. Baptiste, I attached electronic versions of an Inventor's Declaration and an Assignment document. None of my email communications generated failure messages. The implication is that Mr. Baptiste's email account is still in operation.

In my Federal Express communications to Mr. Baptiste, I included paper versions of an Inventor's Declaration and an Assignment document, together with a self-addressed freight paid for Federal Express envelope. Federal Express confirms that my packages were signed for and received by a J. Baptiste.

I have no reason to believe that Mr. Baptiste has not received my various communications or does not understand the nature of these communications and his obligation.

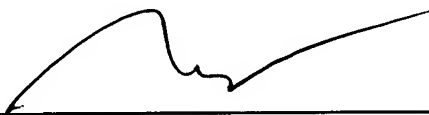
I have also spoken to two co-workers and friends of Mr. Baptiste still employed at Tilia, Landen Higer and Hongyu Wu. I have asked them to convey my desire to communicate with Mr. Baptiste and obtain his cooperation. Mr. Higer and Mr. Wu confirm that they have communicated my request to Mr. Baptiste. Although this is merely anecdotal, both Mr. Higer and Mr. Wu have told me that Mr. Baptiste is unwilling to cooperate with Tilia in pursuing patent protection in the above-identified patent application.

Mr. Baptiste has failed to respond in any manner to my communications.

I have attached as Appendix A a final letter dated June 10, 2004, addressed to Mr. Baptiste at his last known address. My letter of June 10, 2004, was similar to past letters but stated with more particularity Mr. Baptiste's obligations and implored Mr. Baptiste that he cooperate, together with an offer to assist Mr. Baptiste in any way he deemed necessary so that little effort would be required on his part. I have also attached as Appendix B a proof of delivery from Federal Express showing that J. Baptiste received and signed for the package containing the letter of June 10, 2004.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issued thereon.

Signature: _____



Typed Name: Brian R. Coleman

Title: Patent Attorney and Counsel for Applicant

Date: _____

Nov 19 2004

Address: 833 Middle Avenue

Menlo Park CA 94025

June 10, 2004



VIA FEDERAL EXPRESS

Alexandre A. N. Baptista
8078 Creedside Drive
Dublin, CA 94566

101 Jefferson Drive
Menlo Park, CA 94025-1114
PHONE: 650.838.4300
FAX: 650.838.4350
www.perkinscoie.com

Re: U.S. Patent Application entitled: **Vacuum Packaging
Appliance With Removable Trough**
Filing Date: February 26, 2004
Serial No.: 10/789,451
Our File Ref: 37469-8041.US01

Dear Alexandre:

In order to perfect Tilia's patent application for the above-identified technology, we require your execution of the attached Inventor's Declaration and Assignment. As you invented this technology while employed by Tilia, you are obligated to assist Tilia, including executing and returning the attached documents in a timely manner.

We have attempted through several means of communication to obtain your cooperation on this and several other matters. You have been non-responsive. Please contact us immediately so that we may address any concerns you may have. We also would appreciate your current contact information, and a suggestion as how to best communicate with you in the future. We would like to make this as easy as possible for you, and would comply with any reasonable instructions you provide.

Please return the executed documents to our office so that we may file them with the USPTO before the deadline of **July 19, 2004**. For your convenience we have enclosed a self-addressed envelope. You may also fax or email the executed documents to myself or Ms. Judy Vo at Tilia.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact us.

Very truly yours,
Perkins Coie LLP

A handwritten signature in black ink, appearing to read "Brian R. Coleman".

Brian R. Coleman, MSEE
Patent Attorney

BRC/Srb

Enclosures

cc: Judy Lagera Vo, Tilia International, Inc.

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Tracking number 835816322103
Signed for by T.BAPTISTA
Ship date Jun 11, 2004
Delivery date Jun 14, 2004 8:52 AM
Status Delivered

Reference 37469-8013 US01
Delivery location DUBLIN, CA
Service type Priority Overnight

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